IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

C.W.P. No. 12426 of 2007

DATE OF DECISION: 14.8.2007

Narender Singh

…Petitioner

Versus

State of Haryana and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. S.S. Dinarpur, Advocate,
for the petitioner.

M.M. KUMAR, J.

This petition filed under Article 226 of the Constitution prays for quashing order dated 18.4.2007, passed by the Excise and Taxation Commissioner, Haryana, Chandigarh-respondent No. 2, extending the location of L-2 vend of Shri Sanjeev Kumar-respondent No. 5 from Sector-13 Market to Sector 13 & 23 Indira Colony Crossing Bhiwani, for the year 2007-2008 (P-3). It has further been prayed that respondent No. 5 be directed to removed his L-2 vend

from the aforementioned extended location and to open the same in the area which had been allotted to him at the time of grant of license. For redressal of the aforementioned grievance, before approaching this Court, the petitioner has already made an application dated 4.5.2007 to the Commissioner, Excise and Taxation, Haryana-respondent No. 1 (P-4).

We have heard learned counsel for the petitioner at some length and perused the paper book.

Before disposing of this writ petition we would refer to the views of Hon'ble the Supreme Court in the case of **Salem Advocate Bar Association v. Union of India, (2005) 6 SCC 344**. In paras 38 and 39 of the judgment it has been required that whenever notice under Section 80 C.P.C. or under any similar provision are sent then it is mandatory on the part of State or Central Government or other authorities to send reply to such notice. It is well settled that before seeking a direction or a writ of mandamus, a demand justice notice is required to be served on the respondents. In the present case, the petitioner has sent an application, dated 4.5.2007 (P-4), to which no reply is stated to have been received. It has also been observed by Hon'ble the Supreme Court that in cases where such like notice/application has not been replied then cost is required to be imposed. Therefore, without going into the merits of the case, we dispose of the writ petition at this stage with a direction to the official respondents to take a decision on the application dated 4.5.2007 (P-4)

by passing a speaking order within a period of one month from the date of receipt of a certified copy of this order.

Petition stands disposed of in the above terms.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

August 14, 2007
Pkapoor